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Jamaica

Country:

Jamaica

Year:

2018

Freedom Status:

Free

Political Rights:

2

Civil Liberties:

3

Aggregate Score:

77

Freedom Rating:

2.5

Overview:

Jamaica's political institutions are democratic, with competitive elections and orderly rotations of power. However, corruption remains a serious problem, and long-standing relationships between officials and organized crime figures are thought to persist. Gang and vigilante violence remains a concern, as does harassment and violence against LGBT (lesbian, gay, bisexual, and transgender) people.

Political Rights and Civil Liberties:

POLITICAL RIGHTS: 34 / 40

A. ELECTORAL PROCESS: 12 / 12

A1. Was the current head of government or other chief national authority elected through free and fair elections? 4 / 4

The British monarch is the ceremonial chief of state and is represented by a governor general. The prime minister is the head of government; the position is appointed after elections by the governor general, and usually goes to the leader of the majority party or coalition. The prime minister's legitimacy rests largely on the conduct of legislative

elections, which in Jamaica are generally free and fair. Jamaica Labour Party (JLP) leader Andrew Holness became prime minister after the party's narrow win in the 2016 elections.

A2. Were the current national legislative representatives elected through free and fair elections? 4 / 4

Jamaica's bicameral Parliament consists of a 63-member House of Representatives, elected for five years, and a 21-member Senate, with 13 senators appointed on the advice of the prime minister and 8 on the advice of the opposition leader. Senators also serve five-year terms.

In 2016, the opposition JLP won 32 seats in the legislature, in a narrow victory over the incumbent People's National Party (PNP), which took 31. Monitors from the Organization for American States (OAS) deemed the 2016 general elections competitive and credible, but recorded instances of election-related violence ahead of the polls, and expressed concern about voter apathy, which was manifested in a historically low voter turnout of 48 percent.

A3. Are the electoral laws and framework fair, and are they implemented impartially by the relevant election management bodies? 4 / 4

Electoral laws are generally fair, but the 2016 OAS mission suggested various improvements, including strengthening campaign finance rules and making it easier for citizens to vote in areas outside their assigned polling station.

B. POLITICAL PLURALISM AND PARTICIPATION: 13 / 16

B1. Do the people have the right to organize in different political parties or other competitive political groupings of their choice, and is the system free of undue obstacles to the rise and fall of these competing parties or groupings? 4 / 4

Political parties form and operate without restriction. Although various smaller parties are active, politics at the national level is dominated by the social democratic PNP and the more conservative JLP.

B2. Is there a realistic opportunity for the opposition to increase its support or gain power through elections? 4 / 4

Opposition parties operate freely, and political power has alternated between the PNP and JLP.

B3. Are the people's political choices free from domination by the military, foreign powers, religious hierarchies, economic oligarchies, or any other powerful group that is not democratically accountable? 2 / 4

Powerful criminal gangs can influence voters who live in areas under their control. Such groups have used intimidation or other tactics to ensure high voter turnout for particular candidates or parties in exchange for political favors.

B4. Do various segments of the population (including ethnic, religious, gender, LGBT, and other relevant groups) have full political rights and electoral opportunities? 3 / 4

Women are underrepresented in politics. Of the 152 candidates contesting the 2016 elections, 26 candidates, or 17.1 percent, were women. Eleven women were elected to the House of Representatives, comprising 17.5 percent of the body. The LGBT community experiences harassment and violence, and this impacts the ability of LGBT people to engage in political and electoral processes.

C. FUNCTIONING OF GOVERNMENT: 9 / 12

C1. Do the freely elected head of government and national legislative representatives determine the policies of the government? 4 / 4

The elected prime minister and national legislative representatives determine the policies of the government. However powerful criminal gangs, as well as corruption in politics, can affect democratic policymaking.

C2. Are safeguards against official corruption strong and effective? 3 / 4

Long-standing relationships between officials and organized crime figures persist. Government bodies continue to pursue corruption investigations, and cases frequently end in convictions. However, the public prosecutor has faced criticism in the media and from nongovernmental organizations (NGOs) for a reluctance to pursue some cases. Government whistleblowers are not well protected.

Allegations that PNP leaders had siphoned off millions of dollars' worth of funds donated to the party in order to bolster their personal campaigns for February 2016 elections remained outstanding. But, the PNP has established an internal oversight body to safeguard against such occurrences in the future.

C3. Does the government operate with openness and transparency? 2 / 4

An access to information law has been in effect since 2004, though it contains a number of exemptions, and does not address officials who do not reply to requests. Legislative processes are sometimes opaque.

CIVIL LIBERTIES: 43 / 60 (+2)

D. FREEDOM OF EXPRESSION AND BELIEF: 15 / 16

D1. Are there free and independent media? 4 / 4

The constitutional right to free expression is generally respected. Most newspapers are privately owned, and express a variety of views. Broadcast media are largely state-owned but espouse similarly pluralistic points of view. Journalists occasionally face intimidation, especially in the run-up to elections.

D2. Are individuals free to practice and express their religious faith or nonbelief in public and private? 4 / 4

Freedom of religion is constitutionally protected and generally respected in practice. While laws banning Obeah—an Afro-Caribbean shamanistic religion—remain on the books, they are not actively enforced.

D3. Is there academic freedom, and is the educational system free from extensive political indoctrination? 4 / 4

The government does not restrict academic freedom.

D4. Are individuals free to express their personal views on political or other sensitive topics without fear of surveillance or retribution? 3 / 4

Individuals are generally free to express their personal views on political or other sensitive topics. However, the presence of powerful criminal gangs in some urban neighborhoods can discourage people from talking openly about such groups' activities.

In September 2017, the House of Representatives passed the National Identification and Registration Bill, which established groundwork for a National Identification System that requires the collection of people's personal information. Privacy advocates have expressed concern about the system's possible overreach; it is expected to be rolled out in 2018.

E. ASSOCIATIONAL AND ORGANIZATIONAL RIGHTS: 9 / 12

E1. Is there freedom of assembly? 3 / 4

Freedom of assembly is provided for by the constitution, and is generally respected in practice. However, occasionally protests are marred by violence or otherwise unsafe conditions. In 2017, protests in Jamaica's St. Thomas Parish over poor roads saw some participants throwing stones and setting debris on fire. Responding police deployed pepper spray against at least one demonstrator.

E2. Is there freedom for nongovernmental organizations, particularly those that are engaged in human rights– and governance-related work? 3 / 4

Jamaica has a robust civil society with many active community groups. However, many such organizations struggle financially and at times have difficulty attracting volunteers, negatively impacting their levels of engagement.

E3. Is there freedom for trade unions and similar professional or labor organizations? 3 / 4

Approximately 20 percent of the workforce is unionized. Labor unions are politically influential and have the right to strike. However, essential services workers most undergo an arbitration process with the Ministry of Labor and Social Security before they may legally strike, and the definition of the work constituting "essential services" is broad.

There are reports of private-sector employers laying off unionized workers and then later hiring them as contract workers.

F. RULE OF LAW: 8 / 16 (+1)

F1. Is there an independent judiciary? 3 / 4 (+1)

Judicial independence is guaranteed by the constitution, though corruption is a problem in some lower courts. The judicial system is headed by the Supreme Court and includes a court of appeals and several magistrates' courts. The Trinidad-based Caribbean Court of Justice is the highest appellate court.

There were several high-profile convictions during 2017, including in July of a policeman for his involvement in shooting and killing a teenager in 2007. According to a May 2017 report published by the Office of the Contractor General, 68 percent of respondents believed judges had integrity.

Score Change: The score improved from 2 to 3 because the judiciary has established a record of independent decisions, and is regarded as independent by much of the public.

F2. Does due process prevail in civil and criminal matters? 2 / 4

A large backlog of cases and a shortage of court staff at all levels continues to undermine the justice system. Trials are often delayed for years, and at times cases are dismissed due to systematic failures, including antiquated rules regarding evidence.

F3. Is there protection from the illegitimate use of physical force and freedom from war and insurgencies? 2 / 4

Killings by police remain a serious problem in Jamaica. According to the Independent Commission of Investigations (INDECOM), 168 individuals were killed by security personnel in 2017.

A Commission of Inquiry in 2016 submitted a report on the state of emergency declared in 2010 in response to violence in the Tivoli Gardens neighborhood of Kingston, in which more than 70 civilians were killed in an operation aimed at arresting an alleged drug trafficker. The report found that security forces had acted disproportionately, and recommended that the government apologize for the event and provide victims with compensation and counseling services; the government issued an apology and provided some compensation to relatives of those killed in December 2017. However, the JCF in August 2017 issued its own report on the raid, which cleared members of wrongdoing and questioned the integrity of the earlier report.

Gang and vigilante violence remains a common occurrence. Kingston's insular "garrison" communities remain the epicenter of most violence and serve as safe havens for gangs. Jamaica is a transit point for cocaine shipped from Colombia to U.S. markets, and much of the island's violence is the result of warfare between drug gangs. A range of initiatives have been taken by successive governments, but crime and violence remain deeply

entrenched. As of mid-December, there had been over 1,500 killings, according to police data. In an October address, National Security Minister Robert Montague said crime is causing the country to lose around 68 billion Jamaican dollars (\$526 million) a year—the equivalent of five percent of GDP.

F4. Do laws, policies, and practices guarantee equal treatment of various segments of the population? 1 / 4

Harassment of and violence against LGBT people remains a major concern and is frequently ignored by the police. Legislation against sodomy, which is punishable by 10 years in prison with hard labor, was challenged in court in 2014; however, the case was withdrawn that year after death threats were made against the claimant and his family. In 2016, a report published by J-Flag (Jamaica Forum of Lesbians, All-Sexuals and Gays) found that approximately 88 per cent of survey respondents felt that male homosexuality was immoral; 83.7 percent felt the same for female homosexuality; and 83.5 percent felt bisexual relationships were immoral; these results represented an increase on a similar survey conducted in 2011. As a modest step forward, in 2014 the government added a provision to the Offences against the Person Act that criminalizes the production, recording, or distribution of any audio or visual materials that promote violence against any category of persons, including LGBT individuals.

Women enjoy the same legal rights as men but suffer employment discrimination and tend to make less money than men for performing the same job.

Employment discrimination against Rastafarians has decreased in recent years, as Rastafarian dress and practices have gained greater societal acceptance.

G. PERSONAL AUTONOMY AND INDIVIDUAL RIGHTS: 11 / 16 (+1)

G1. Do individuals enjoy freedom of movement, including the ability to change their place of residence, employment, or education? 3 / 4

Although there are constitutional guarantees of freedom of movement, political and communal violence frequently precludes the full enjoyment of this right, and curfews are sometimes imposed as a result of gang activity. There are no formal restrictions on people's ability to choose their place of employment or education.

G2. Are individuals able to exercise the right to own property and establish private businesses without undue interference from state or non-state actors? 3 / 4 (+1)

Jamaica has an active private sector and a powerful pro-business lobby. Individuals are free to establish businesses subject to legal requirements, which are not onerous. Recent reforms have included expediting the incorporation process, making electricity in Kingston more consistent, and easing the import process. However, corruption and crime can still hamper normal business activity.

Score Change: The score improved from 2 to 3 because Jamaica has a robust private sector and the government has taken legal and practical steps to encourage private business activity.

G3. Do individuals enjoy personal social freedoms, including choice of marriage partner and size of family, protection from domestic violence, and control over appearance? 2 / 4

Legal protections for women and girls are poorly enforced, and violence and discrimination remain widespread. There is not a blanket ban on spousal rape, nor are there laws against sexual harassment.

G4. Do individuals enjoy equality of opportunity and freedom from economic exploitation? 3 / 4

Residents of neighborhoods where criminal groups are influential are at a heightened risk of becoming victims of human traffickers. Child sex tourism is present in some of Jamaica's resort areas, according to local NGOs. Jamaica has been taking increased action to prevent trafficking; according to the U.S. State Department's 2017 *Trafficking in Persons Report*, there were two convictions, 9 nine trafficking cases, and 40 new investigations during the period under review.

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